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International Residual Mechanism for Criminal Tribunals

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International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the fifth annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1).

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Letter of transmittal

Letter dated 1 August 2017 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the fifth annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2017, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

Summary

Fifth annual report of the International Residual Mechanism for Criminal Tribunals

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2016 to 30 June 2017.

The Mechanism was established by the Security Council in resolution 1966 (2010) to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia after the closure of the two Tribunals. Those functions include attending to a wide range of judicial matters, locating and arresting remaining fugitives, providing protection to witnesses, supervising the enforcement of sentences and managing the archives of the two Tribunals.

With branches in Arusha, United Republic of Tanzania, and The Hague, the Netherlands, the Mechanism is operating on two continents and continues to draw upon the best practices of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and other tribunals, while also actively pursuing new ways to improve its operations, procedures and working methods so as to maximize effectiveness and efficiency. The Mechanism is guided in its activities by the Security Council's emphasis on it being a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions.

During the reporting period, the President supervised matters relating to the management of the Mechanism, coordinated the work of the Chambers, presided over the Appeals Chamber and issued a substantial number of orders and decisions on issues including the enforcement of sentences, the assignment of counsel and legal aid. In its most significant judicial activity, the Mechanism's Trial Chamber at the Hague branch commenced evidentiary hearings in a retrial during the reporting period. The Appeals Chamber is seized of two appeals from judgment and has issued a number of decisions in those and other cases. The Appeals Chamber has also disposed of an appeal against a decision refusing a request for the revocation of a referred case, and, at the close of the reporting period, remained seized of two requests for review of judgment. In addition, single judges issued a large number of orders and decisions on a range of matters, including assisting national jurisdictions through ruling on requests for variations of protective measures and requests for access to confidential information.

The Office of the Prosecutor focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. The Office of the Prosecutor also continued to perform its responsibilities in respect of other residual functions, including handling the large volume of non-trial and appeal litigation before the Mechanism.

The Registry provided and coordinated the administrative, legal, policy and diplomatic support services for the Mechanism throughout the reporting period. As part of its substantive functions, the Registry offered protection and support services to witnesses, worked on multiple aspects of the enforcement of sentences handed down by the Tribunals and supported the International Tribunal for the Former Yugoslavia in the preparation of records and archives for transfer to the Mechanism. As part of its administrative functions, the Registry supported all the organs of the

Mechanism in completing recruitment and continued the gradual process of establishing the Mechanism's own self-standing capacity. In a milestone for the institution, facilitated by the work of the Registry, the Mechanism opened its new premises at the Arusha branch during the reporting period.

I. Introduction

1. The fifth annual report of the International Residual Mechanism for Criminal Tribunals outlines the activities of the Mechanism for the period from 1 July 2016 to 30 June 2017.

2. The Mechanism's mandate includes ensuring the trial of the remaining fugitives. While the International Tribunal for the Former Yugoslavia has no outstanding fugitives charged with serious violations of international humanitarian law, eight individuals indicted by the International Criminal Tribunal for Rwanda are still at large. Three of the eight are expected to be tried by the Mechanism and the cases of the remaining five have been referred to Rwanda for trial.

3. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the modalities specified in the transitional arrangements. The activities concern the retrials of cases completed by the two Tribunals, appeals of their judgments and sentences, reviews of their proceedings and contempt of court and false testimony cases.

4. In addition, the Mechanism has been tasked with the responsibility for certain functions of the two Tribunals, including: the protection and support of victims and witnesses who have testified in the Tribunals' cases; management of the Tribunals' archives; supervision of the enforcement of sentences handed down by the Tribunals; responding to requests for assistance from national authorities; and monitoring cases referred to national courts by the Tribunals.

5. During the reporting period, the Mechanism conducted a range of judicial and other activities within its remit, further developed its legal and regulatory framework and opened its new premises in Arusha, United Republic of Tanzania.

II. Activities of the Mechanism

A. Organization

6. In its resolution 1966 (2010), the Security Council established that the Mechanism would operate for an initial four-year period, starting from 1 July 2012. Unless the Council decides otherwise, the Mechanism shall continue to operate for subsequent periods of two years, following reviews by the Council of the progress of the Mechanism's work, including in completing its functions. The Council completed its first review of the progress of the Mechanism's work in December 2015, as set forth in Council resolution 2256 (2015) and reflected in General Assembly resolution 70/227.

7. The Mechanism consists of three organs, which serve both branches of the Mechanism: (a) the Chambers, from which single judges can be appointed and trial and appeal benches formed as needed, and which is presided over by the President; (b) the Prosecutor; and (c) the Registry, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.

8. Each organ is headed by a full-time principal, common to both branches. The President of the Mechanism is Judge Theodor Meron. The Prosecutor for the Mechanism is Serge Brammertz, who concurrently serves as the Prosecutor of the International Tribunal for the Former Yugoslavia. Olufemi Elias was newly appointed as the Registrar of the Mechanism during the course of the reporting period, with effect from 1 January 2017, upon the conclusion of the appointment of the Mechanism's first Registrar, John Hocking.

9. The Mechanism has a roster of 25 independent judges, elected by the General Assembly to serve a four-year term. In June 2016, and further to Security Council resolution 2269 (2016) and article 10 (3) of the statute of the Mechanism, the Secretary-General reappointed the 25 judges for a new, two-year term, from 1 July 2016 to 30 June 2018.

B. Legal and regulatory framework

10. An agreement between the United Nations and the Netherlands concerning the branch of the Mechanism at The Hague, signed on 23 February 2015, entered into force on 1 September 2016. The agreement, inter alia, regulates matters relating to the proper functioning of the Mechanism in the Netherlands, facilitates the Mechanism's smooth and efficient functioning and creates conditions conducive to the Mechanism's stability and independence.

11. As provided by article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence of the Mechanism and any such amendments shall take effect upon adoption by the judges of the Mechanism, unless the Security Council decides otherwise. On 26 September 2016, the judges commenced their first in-person plenary at the Hague branch of the Mechanism and adopted amendments to rules 3, 5, 11, 19, 42, 47, 78, 79 and 155 of the Rules. Over the course of the two-day plenary, the judges also received briefings from all three principals of the Mechanism and discussed issues pertaining to the internal functioning of the Mechanism and ways to increase its efficiency.

12. The Mechanism further developed procedures and policies building upon the best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. During the reporting period, the President issued a revised practice direction on the procedures for amending the Rules of Procedure and Evidence of the Mechanism. Furthermore, the Registrar adopted a policy governing access to the records held by the Mechanism and an additional legal aid policy applicable to counsel representing eligible accused persons in trial proceedings before the Mechanism, as well as a revised practice direction on filings made before the Mechanism.

C. Mechanism Coordination Council

13. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, inter alia, matters concerning planning for the next biennium, the transition of functions from the International Tribunal for the Former Yugoslavia to the Mechanism, the long-term relocation of acquitted and released individuals and other matters of common concern.

D. Rules Committee

14. The Mechanism's Rules Committee produced its first report to the judges on proposed amendments to the Rules of Procedure and Evidence in September 2016 and is currently considering a number of proposals for amendments to the Rules.

E. Coordination with the International Tribunal for the Former Yugoslavia

15. During the reporting period, the Mechanism benefited greatly from the operational and administrative support provided by the International Tribunal for the Former Yugoslavia. The principals and staff of both institutions continued to work together closely and shared institutional knowledge, expertise and lessons learned, with a view to ensuring that the progressive transfer of functions from the International Tribunal for the Former Yugoslavia to the Mechanism was as efficient and seamless as possible.

III. Activities of the President and the Chambers

A. Principal activities of the President

16. The President, in his capacity as the head of the Mechanism, has engaged in many issues related to the representation and management of the Mechanism throughout the reporting period. He has represented the Mechanism in a variety of external forums, developed and contributed to the development of various policies and guidance documents, including with respect to translation, interpretation and occupational safety and health, and held regular meetings with the Registrar on operational matters subject to the President's overall authority. As described in further detail below, the President has also addressed the Security Council and the General Assembly in relation to the detention by national authorities of Mechanism Judge Aydin Sefa Akay.

17. Pursuant to the statute, during the reporting period, the President submitted two six-monthly reports to the Security Council on the progress of the Mechanism and twice briefed the Council on the work of the Mechanism, in December 2016 and June 2017. Also as mandated by the statute, the President submitted the Mechanism's annual report to the General Assembly and the Council (A/71/262-S/2016/669) and briefed the Assembly in November 2016.

18. During the reporting period, the President engaged with State officials in Arusha, The Hague and other locations, as well as with victims' groups and members of civil society. In addition, the President and senior staff members in the Chambers have exchanged information and views with representatives from other courts and tribunals with a view to identifying and sharing best practices in the field of fair and expeditious case management.

19. In his judicial capacity, the President continued to coordinate the work of the Chambers with a view to achieving efficiencies and making the best use of the diverse array of judicial expertise and legal cultures reflected in its roster of 25 judges, including by providing a broad distribution of judicial work among the judges, while refraining from giving case assignments to those Mechanism judges who are also judges of the International Tribunal for the Former Yugoslavia, so as not to impede the completion of their work for that Tribunal; ensuring the full readiness of the Chambers in the event of the apprehension of fugitives; and working with fellow judges and senior staff to enhance the smooth and cost-effective functioning of the Chambers more generally. In furtherance of the Mechanism's effective and transparent management, and in consultation with the other judges, the President revised internal processes regarding judicial remuneration and case management during the reporting period. He also issued numerous assignment orders and ruled on requests for administrative review and on requests for the revocation of an order referring a case to Rwanda. In addition, the

President presided over the Appeals Chamber and is serving as the pre-appeal judge in the cases of *Radovan Karadžić* and *Vojislav Šešelj*. With respect to the supervision of the enforcement of sentences, the President issued numerous orders and decisions relating to applications for the early release of persons convicted by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia and other public and confidential matters. He also addressed reports and complaints concerning the conditions of detention of convicted persons serving sentences under the supervision of the Mechanism.

B. Principal activities of single judges

20. During the reporting period, 14 single judges were seized of and issued orders or decisions in relation to numerous requests arising in matters at both the Arusha and Hague branches. Those requests concerned, inter alia, assistance to national jurisdictions, access to confidential information, the variation of protective measures, the disclosure of exculpatory information, allegations of contempt and false testimony and changes in the classification of filings. Collectively, 120 decisions or orders were issued by single judges during the reporting period and, as at 30 June 2017, a single judge was seized of a matter relating to allegations of false testimony. In addition, a single judge completed an inquiry into the circumstances surrounding the death of Zdravko Tolimir while in custody at the United Nations Detention Unit in The Hague, and presented his report to the President of the Mechanism on 7 September 2016. The President informed the Security Council accordingly.

C. Principal activities of the Trial Chambers

21. In the case of *Jovica Stanišić and Franko Simatović*, the Trial Chamber at the branch in The Hague held trial preparation hearings on 28 September and 14 December 2016 and on 7 April 2017. For the purposes of determining the trial schedule, the Trial Chamber heard expert evidence on Jovica Stanišić's medical condition on 12 December 2016 and 2 February 2017. The pretrial conference in the case was held on 17 May 2017 and the trial began on 13 June 2017 with the opening statement of the Prosecution. The presentation of the evidence of the Prosecution commenced immediately thereafter. During the reporting period, the pretrial judge and the Trial Chamber issued 64 decisions or orders, including on the modalities for trial, the admission of evidence and provisional release. The trial is ongoing.

D. Principal activities of the Appeals Chamber

22. On 4 October 2016, the Appeals Chamber denied an appeal filed by Jean Uwinkindi against the Trial Chamber's decision denying his request for the revocation of the referral of his case to Rwanda. In the context of the appeal, during the reporting period, the Appeals Chamber also disposed of requests for the admission of additional evidence and addressed applications concerning procedural matters.

23. The Appeals Chamber also considered a variety of requests during the reporting period relating to protective measures, access to confidential materials and the assignment of legal assistance for potential review applications. For example, on 14 November 2016, the Appeals Chamber determined an appeal concerning a decision to rescind protective measures for a deceased witness. On 17 May 2017, the Appeals Chamber ruled on an appeal against a decision regarding a request for

access to confidential materials. The Appeals Chamber also decided two requests for the assignment of counsel and legal aid in respect of potential requests for review on 23 September 2016 and 13 April 2017, respectively.

24. The Appeals Chamber is seized of appeal proceedings in the *Karadžić* case, in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 24 March 2016. The Appeals Chamber partly granted requests for extensions of time for the briefing, totalling 217 days of extensions. The briefing process concluded on 6 April 2017 with the filing of the parties' reply briefs. During the reporting period, the Appeals Chamber issued 62 decisions or orders in relation to that case during the pre-appeal proceedings, which are ongoing.

25. The Appeals Chamber is also seized of an appeal by the Prosecution against the acquittal of Vojislav Šešelj by a Trial Chamber of the International Tribunal for the Former Yugoslavia. The briefing process concluded on 22 February 2017 with the filing of the Prosecution's reply brief. During the pre-appeal proceedings in the reporting period, the Appeals Chamber issued seven decisions or orders in relation to the case, which is being prepared for a hearing of the appeal.

26. As of the conclusion of the reporting period, the Appeals Chamber also remains seized of review proceedings in the case of *The Prosecutor v. Augustin Ngirabatware*. In September 2016, the review proceedings were halted owing to the arrest and detention in Turkey of a member of the bench, Judge Aydin Sefa Akay, notwithstanding the assertion of diplomatic immunity by the United Nations. On 31 January 2017, the pre-review judge ordered the Government of Turkey to cease all legal proceedings against Judge Akay and take all necessary measures to ensure his release from detention as soon as practicable, but no later than 14 February 2017. On 9 March 2017, the President notified the Security Council of the Turkish Government's non-compliance with that order. The review proceedings resumed upon the provisional release of Judge Akay in June 2017, pending further proceedings in his case at the national level. On 19 June 2017, the Appeals Chamber granted Augustin Ngirabatware's request for a review of his convictions, ordered the parties to file, by 31 July 2017, a list of evidence and witnesses each proposed to introduce at the review hearing and indicated that a scheduling order for the hearing would be issued in due course.

27. The Appeals Chamber is also seized of a request for review brought on 7 June 2017 by Eliézer Niyitegeka against the judgment and sentence of the International Criminal Tribunal for Rwanda in his case, as well as of an appeal brought by Mr. Niyitegeka against a decision of a single judge on his access to information and materials relating to certain witnesses.

28. On 29 June 2017, the Appeals Chamber was seized of an appeal by Jean de Dieu Kamuhanda against a decision of a single judge relating to Mr. Kamuhanda's request to interview a witness.

IV. Activities of the Office of the Prosecutor[1]

A. Introduction

29. During the reporting period, the Office of the Prosecutor continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal

[1] The present section reflects the views of the Prosecutor of the Mechanism.

Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

30. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, paragraphs 18, 19 and 20 of its resolution 2256 (2015). The Office, in conjunction with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, continued to implement the "one office" policy to further streamline operations and reduce costs by effectively integrating staff and resources across the Offices. The Office of the Prosecutor of the Mechanism also continued the coordinated transition of "other functions" from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

B. Trials and appeals

31. During the reporting period, the Office of the Prosecutor continued its work on one trial (*Stanišić and Simatović*) and two appeals proceedings (*Karadžić* and *Šešelj*) arising out of cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the Mechanism's statute and transitional arrangements. The present ad hoc judicial activity is temporary in nature. It is expected that the Office will conduct further appeal proceedings, if any, in the *Mladić* case following the anticipated rendering of the trial judgment by the International Tribunal for the Former Yugoslavia in November 2017.

32. On 15 December 2015, the Appeals Chamber partially granted the appeal of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgment and ordered the case to be retried on all counts. During the reporting period, the Office of the Prosecutor of the Mechanism completed its pretrial preparations in accordance with the workplan for that case issued by the pretrial judge on 3 June 2016. All required filings were submitted by the established deadlines. Trial proceedings began on 13 June 2017.

33. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. During the reporting period, the Office of the Prosecutor completed the written appeals briefing phase in the case 12 months from the issuance of the trial judgment.

34. On 31 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia, by majority, acquitted Vojislav Šešelj on all counts of the indictment against him. During the reporting period, the Office of the Prosecutor completed the written appeals briefing phase in the case 11 months from the issuance of the trial judgment.

35. On 19 June 2017, the Appeals Chamber of the Mechanism granted Augustin Ngirabatware's motion to initiate review proceedings of the convicting judgment against him issued by the International Criminal Tribunal for Rwanda. The Appeals Chamber ordered a review hearing to be held at which Mr. Ngirabatware and the Office of the Prosecutor will present evidence as to whether there is a new fact which, if proved, could have been a decisive factor in reaching the original conviction.

36. The Office continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 28 of the Mechanism's statute. The Office's access to documents, archives and witnesses is critical to ongoing Mechanism trial and appeal proceedings. During the reporting period, cooperation

by Bosnia and Herzegovina, Croatia, Serbia and Rwanda with the Office of the Prosecutor remained satisfactory. The Office fully expects that its requests for assistance will be promptly and adequately processed.

C. Fugitives

37. During the reporting period, the Office of the Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Phénéas Munyarugaram◦, Aloys Ndimbati, Ryandikayo and Charles Sikubwabo.

38. The Office completed an overall review of its tracking efforts to date. As a result of the review, a number of challenges were identified and steps are being taken to resolve those issues. In addition, the Office has developed concrete strategies for the apprehension of each of the eight remaining fugitives, which are being implemented. The Office also strengthened its public communications and outreach programmes.

39. The Office, following consultations with key partners, developed and established two task forces focused on Africa and Europe, respectively. The task forces bring the Office together with key partners, including the International Criminal Police Organization (INTERPOL) and relevant national law enforcement authorities, in an operational structure that can coordinate and conduct intelligence and investigative activities in pursuit of the fugitives. The task force approach will allow the Office to streamline and expedite such activities by promoting information-sharing and strengthening collaboration between the Office and its partners. Support from key partners, in particular INTERPOL and the Government of Rwanda, was critical to the establishment of the task forces, and the Office expresses its gratitude to all national authorities who have so far agreed to participate or provide assistance.

40. At the same time, the Office began undertaking a necessary restructuring of its tracking team. The Office identified a mismatch between the structure and capacities of its tracking team and the activities needed at the present time to move the search for the remaining fugitives forward. In particular, the Office must strengthen its analytical capacities and its ability to work closely with partner law enforcement agencies. In addition, the Office needs to ensure that it can conduct a wide range of necessary investigative activities, including investigations of communications and finances. Accordingly, the Office will in the near future abolish the existing tracking team structure and establish a new fugitives and investigations unit that provides the needed capacities.

41. The Office underscores its commitment to arresting the remaining fugitives as soon as possible. As a reflection of that commitment, the Office will propose that, in the forthcoming budget of the Mechanism for the period 2018-2019, fugitive tracking be reclassified from a continuous to an ad hoc function, as that would clarify and signal the fact that fugitive tracking is a temporary activity that must be brought to a close in a reasonable time period, consistent with other ad hoc functions of the Mechanism.

D. Assistance to national jurisdictions

42. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. Consistent with the completion strategies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, the statute of the Mechanism and Security Council resolutions 1966 (2010) and 2256 (2015), the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental in order to build and sustain the rule of law, establish the truth of what occurred and promote reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their respective territories for crimes committed in Rwanda and the former Yugoslavia. The Office has continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with its counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

43. During the reporting period, the Office continued to provide national judicial authorities with access to evidence and information in response to a high volume of requests. The Office possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The collection of evidence related to Yugoslavia comprises more than nine million pages of documentation and thousands of hours of audio and video records, most of which were not introduced into evidence in any International Tribunal for the Former Yugoslavia proceeding and therefore are only available from the Office of the Prosecutor. The collection of evidence related to Rwanda comprises more than one million pages of documentation. The Office's staff have unique insight into the crimes and the cases, and can assist national prosecutors in preparing and proving their indictments.

44. During the reporting period, in relation to Rwanda, the Office received 11 requests for assistance from four Member States and one international organization. All requests have been processed. In total, the Office handed over 23,000 pages of documentation. In relation to the former Yugoslavia, the Office received 239 requests for assistance from eight Member States and three international organizations. Some 146 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 53 by Croatia, 8 by Montenegro and 3 by Serbia. In total, the Office handed over 4,600 documents comprising more than 84,000 pages and 92 audio and video files. In addition, the Office filed submissions in relation to 38 requests for the variation of witness protective measures: 37 concerning proceedings in Bosnia and Herzegovina and 1 concerning a proceeding in Serbia.

E. Capacity-building

45. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts are global in nature, but also focus specifically on the Great Lakes region and East Africa and the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and the national ownership of post-conflict accountability.

46. The Office focused its capacity-building efforts in particular on strengthening peer-to-peer engagement with criminal justice professionals from around the world on the topic of prosecuting conflict-related sexual violence. Those activities build

upon the book, entitled *Prosecuting Conflict-Related Sexual Violence at the ICTY*, produced by the International Tribunal for the Former Yugoslavia, which is an important component of that Tribunal's legacy. The programmes were organized under the auspices of the Prosecuting Conflict-related Sexual Violence Network, set up through the International Association of Prosecutors and supported by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism.

47. In Nairobi in August 2016, staff from the Office led a six-day advanced training session that focused on practical legal skills in international criminal law. The training session had a thematic focus on the prosecution of sexual violence crimes in conflict and was attended by 30 prosecutors and other practitioners from Kenya, Rwanda, South Sudan, Uganda and the United Republic of Tanzania. The training session was followed by a conference to share experience, which brought together a wide range of stakeholders to encourage deeper and more coordinated dialogue, the exchange of expertise and action among actors working to address conflict-related sexual violence at both the international and national levels.

48. In Nuremberg, Germany, in December 2016, Office staff conducted a peer-to-peer discussion on conflict-related sexual violence with practitioners from the Netherlands, Rwanda and Uganda, current and former prosecutors from the International Criminal Court and International Tribunal for the Former Yugoslavia Tribunal and an academic expert. To ensure the sustainability of the discussions, follow-up engagement is being pursued through the Prosecuting Conflict-related Sexual Violence Network, including through the provision of key legal precedents to facilitate national prosecutions.

49. In February 2017, Office staff were part of an expert mission of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) to Bogotá to advise on the integration of gender perspectives into the planned transitional justice process in Colombia. The discussions underscored the importance of utilizing existing networks as vehicles for accessing global experience and lessons learned in prosecuting conflict-related sexual violence.

50. In addition to work fostering capacity-building through peer-to-peer activities, the Office of the Prosecutor of the Mechanism and the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia jointly published the book *Prosecuting Conflict-Related Sexual Violence at the ICTY* in Bosnian/Croatian/Serbian, and launched the new translation during the International Tribunal for the Former Yugoslavia legacy conference in Sarajevo in June 2017. The Office of the Prosecutor of the Mechanism is also continuing its efforts to develop a complementary training programme to help practitioners in the former Yugoslavia and elsewhere learn key insights and messages from the book.

V. Activities of the Registry

51. During the reporting period, the Registry continued to provide administrative, legal, policy and diplomatic support to Mechanism operations.

A. Administration, staffing and facilities

52. By its resolution 70/243, the General Assembly decided to appropriate to the Special Account for the Mechanism a total amount of $137,404,200 gross ($126,945,300 net) for the biennium 2016-2017.

53. Over the past year, the Mechanism has continued with the development of its own self-standing administration. That process is in step with the closure of the International Criminal Tribunal for Rwanda at the end of 2015 and the downsizing of the International Tribunal for the Former Yugoslavia. Significant support is still provided by administrative staff of the International Tribunal for the Former Yugoslavia as part of the "double-hatting" arrangement.

54. The mandate of the liquidation team of the International Criminal Tribunal for Rwanda concluded on 31 July 2016. After assuming full responsibility on 1 August 2016 for all pending administrative and financial matters pertaining to that Tribunal, the Mechanism has continued to work towards their finalization.

55. Following its high-profile inauguration on 25 November 2016 by the Vice-President of the United Republic of Tanzania, for the host State, and the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, for the Organization, staff moved into the new premises of the Arusha branch on 5 December 2016. The new premises were completed within budget. The project maximized the usage of local materials and building methods and benefited from best practices and lessons learned in other United Nations capital projects. In December 2016, the project entered the post-construction phase, which includes the completion of required remedial works, the appropriate recovery of direct and indirect costs arising from delays where economically feasible, the completion of the transition from project to facilities management and the final closure of the project account. In that context, attention is being paid in particular to correcting certain technical defects of the facility constructed to host the archives of the International Criminal Tribunal for Rwanda. The Mechanism continues to be deeply grateful to the United Republic of Tanzania for its steadfast support for the completion of the project and to the Secretariat for its ongoing advice.

56. The Hague branch of the Mechanism is co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference, in order to safeguard its legacy and for reasons of efficiency and cost-effectiveness, for remaining at its current premises after the closure of the Tribunal. Technical discussions and negotiations with the authorities of the host State and the owners of the premises are ongoing and progressing in that regard.

57. The Mechanism has a vacancy rate of only 3 per cent for its continuing posts. As at 30 June 2017, the Mechanism had a total of 478 staff (on posts and in general temporary assistance positions): 163 at the Arusha branch, including the Kigali office, and 315 at the Hague branch, including the Belgrade and Sarajevo offices. The Mechanism's staff comprises nationals of 72 States. Of the staff at the Professional level and above, 56 per cent are women and 44 per cent men. Approximately 85 per cent of those recruited were current or former staff members of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

B. Support for judicial activities

58. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

59. The Registry processed and disseminated more than 1,900 judicial filings, amounting to more than 30,000 pages. In addition, it facilitated and serviced hearings in the *Stanišić and Simatović* retrial, and supported the *Karadžić* and *Šešelj* appeal proceedings. The Registry's Language Support Services provided translations of judgments and other documents into Bosnian/Croatian/Serbian, English, French,

Kinyarwanda and other languages, as required, as well as conference and consecutive interpretation.

60. During the reporting period, the Registry adopted a policy governing the remuneration of defence counsel in trial proceedings. One additional remuneration policy is being developed. Once that is adopted, the Mechanism's regulatory framework for legal aid will be complete. In addition, the Registry provided assistance, financial and otherwise, to an average of 39 defence teams comprising a total of approximately 100 defence team members.

61. The Registry continued to support all sections of the Mechanism in the ongoing expansion of rosters of qualified potential staff in order to ensure that the Mechanism is able to scale up rapidly in the event of a sudden increase in judicial activity, for instance, following the arrest of one or more fugitives.

62. The Registry also expanded the list of qualified counsel who can be assigned to suspects or accused persons under rule 43 (B) of the Rules of Procedure and Evidence of the Mechanism, as well as the roster of duty counsel under rule 43 (C) who are available to be assigned to an accused person for the purposes of an initial appearance. In addition, the Registry facilitated the engagement of pro bono counsel for convicted persons.

C. Support for other mandated activities

1. Witness support and protection

63. The Mechanism is responsible for the important residual function of witness support and protection in relation to thousands of witnesses who have testified in cases completed by the two Tribunals.

64. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Witness Support and Protection Unit provides security to witnesses by undertaking threat assessments and coordinating responses to security-related requirements. During the reporting period, the Unit also ensured that protected witness information remained confidential and continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. The Unit has implemented and complied with 56 judicial orders related to protected witnesses and prepared for the retrial of the *Stanišić and Simatović* case, including by facilitating the appearance of witnesses in June 2017.

65. As part of the provision of support services to witnesses at the Arusha branch, witnesses continue to receive medical and psychosocial assistance. That assistance is particularly focused on witnesses who were victims of sexual or gender-based violence during the Rwandan genocide.

66. Finally, the witness protection teams at the two branches continue to exchange best practices and use a common information technology platform for their respective witness databases to maximize operational efficiency.

2. Archives and records management

67. During the reporting period, the Mechanism's Archives and Records Section continued preparing the records and archives of the Tribunals for transfer to the Mechanism. The Section provided training, advice and assistance to staff and facilitated the transfer of active and inactive records.

68. The transfer of records of the International Criminal Tribunal for Rwanda, including records related to the Tribunal's liquidation activities in 2016, has

involved, inter alia, the comprehensive verification and accessioning of the records at issue, including the integration of relevant metadata into Mechanism databases, and was completed during the reporting period. In The Hague, more than 56 per cent of the inactive physical records of the International Tribunal for the Former Yugoslavia and 88 per cent (1.6 petabytes) of its digital records have been transferred to the Mechanism. It is estimated that the archives of the two Tribunals will ultimately amount to approximately 12,000 linear metres of physical records and approximately 3 petabytes of digital records.

69. During the reporting period, the implementation of a digital preservation system was completed. Preparations are under way to begin the transfer of digital records into the system in the second half of 2017. The Section also continued to develop the Mechanism's records and archives governance structure and supported the implementation of the Mechanism's electronic document records management system in the Office of the Prosecutor in both branches.

70. The public interface for accessing and searching the judicial records of the International Criminal Tribunal for Rwanda and the Mechanism has continued to be updated, with more than 33,000 public judicial records currently accessible through the Mechanism's website (www.unmict.org). In addition, the Section preserved approximately 2,000 audiovisual recordings of proceedings at the International Tribunal for the Former Yugoslavia.

71. The Section launched a new standing exhibition highlighting selected "firsts" in the histories of the Tribunals. The Mechanism also hosted international archival meetings at the new facility in Arusha in May 2017, including the annual executive board meeting for the International Council on Archives.

72. Finally, the Mechanism's library at the Arusha branch opened at the new premises in November 2016. The library, one of the premier resources for international law research in East Africa, offers an enhanced research environment for both internal and external clients.

3. Enforcement of sentences

73. As of the end of the reporting period, the Mechanism is overseeing the enforcement of the sentences of a total of 39 individuals: 23 persons convicted by the International Criminal Tribunal for Rwanda, who are serving their sentences in two States; and 16 persons convicted by the International Tribunal for the Former Yugoslavia, who are serving their sentences in nine States. Currently, 10 convicted persons at the United Nations Detention Facility in Arusha and 2 convicted persons at the United Nations Detention Unit in The Hague are awaiting transfer to enforcement States to serve their sentences.

74. Following the transfer to the Government of Senegal in December 2015 of eight prison cells in Sébikotane Prison, which had been refurbished by the International Criminal Tribunal for Rwanda, the Mechanism undertook and completed in 2016 the procurement of furniture and other necessary assets to equip the cells for prospective use in the enforcement of sentences under the supervision of the Mechanism. The cells are ready for use and the Mechanism continues to look forward to the final implementation of the decision by Senegal to accept prisoners of the International Criminal Tribunal for Rwanda, which will enable the enforcement of sentences in that State.

75. The Mechanism continued to seek the cooperation of existing enforcement States in enforcing the sentences of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. In addition, the Mechanism continued to work towards securing additional agreements

to increase the enforcement capacity of both branches. On 12 May 2017, the Mechanism concluded a revised agreement with the Government of Benin on the enforcement of the sentences of the International Criminal Tribunal for Rwanda or the Mechanism. That agreement, like the amended agreement on the enforcement of sentences concluded with the Government of Mali in June 2016, reflects best practices in the enforcement of international sentences. Similar agreements are under negotiation with other enforcement States. The Mechanism is grateful to Member States that are enforcing sentences and to those that are considering enforcing sentences in the future.

76. The Mechanism continued to closely monitor the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali, where 13 convicted persons are serving their sentences under the supervision of the Mechanism.

4. Assistance to national jurisdictions

77. The Registry facilitated an increasing number of requests by national authorities, or parties to national proceedings, for assistance in connection with national proceedings related to the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Registry processed 324 requests for assistance, including requests to question detained persons and protected witnesses; to rescind, vary or augment protective measures for witnesses; and to retrieve and transmit confidential and certified material to national authorities.

5. Upkeep and relocation of acquitted and released persons

78. The Mechanism has continued to deploy focused efforts, including bilateral engagement with potential receiving States, to facilitate sustainable solutions for the resettlement of released and acquitted persons and to provide those still residing in Arusha with relevant assistance. While continuing to explore new ways to address the pressing situation pertaining to those individuals, the Mechanism implemented, with effect from 1 July 2016, a revised and more efficient approach in relation to the upkeep of the acquitted and released persons in Arusha pending their relocation. In December 2016, a State in Africa agreed to accept one released person and one acquitted person for relocation, reducing the number of acquitted and released individuals remaining in Arusha to 11. The recently revised agreement with Benin, like the Mechanism's agreement with Mali, contains a specific provision on the facilitation of the temporary stay of persons released following the completion of their sentences, and the Mechanism is engaged in negotiations towards the same end with other States. The Mechanism is grateful to the States concerned and remains appreciative of the ongoing support of the international community in that regard.

6. Monitoring of referred cases

79. Pursuant to article 6 (5) of its statute, during the reporting period the Mechanism monitored three cases referred to Rwanda through monitors from the Kenyan Section of the International Commission of Jurists. In one of those three cases, a Rwandan trial court entered convictions for genocide and crimes against humanity during the reporting period. The Mechanism continues to work on establishing a similar monitoring arrangement for the two cases referred to France, which were monitored by interim monitors from the International Tribunal for the Former Yugoslavia or the Mechanism during the reporting period. Public monitoring reports are posted on the Mechanism's website.

7. External relations and information-sharing

80. During the reporting period, the External Relations Office continued to raise the profile of the Mechanism and awareness of its mandate by engaging with the diplomatic community, the media, civil society and the public, including in Arusha, Dar es Salaam and The Hague, and by organizing a number of high-profile events and media campaigns.

81. In September 2016, the Office organized a panel discussion in The Hague on the new models of international justice, as well as a diplomatic briefing by the Mechanism's principals in May 2017. In April 2017, the Mechanism, the East African Community and members of the local Rwandan diaspora co-hosted a commemorative event in Arusha, marking the twenty-third anniversary of the 1994 genocide in Rwanda. The Mechanism also hosted an inaugural two-day, high-level judicial colloquium for national, regional and international judges at the Mechanism's new premises in Arusha in May 2017.

82. During the reporting period, the Office responded to more than 450 queries from the media and researchers, facilitated interviews with the Mechanism's principals on major television and radio networks and expanded the visibility of the Mechanism through the facilitation of broad coverage in international and regional print media. Moreover, the Office produced a range of new public information material.

83. The Office also continued to manage the Mechanism's website, as well as the legacy website of the International Criminal Tribunal for Rwanda (http://unictr.unmict.org) and the website of the International Tribunal for the Former Yugoslavia (www.icty.org). During the reporting period, the Mechanism's website received more than 350,000 page views. In January 2017, the Mechanism launched an improved version of its website that offers greater accessibility and usability and increased the content available in Bosnian/Croatian/Serbian and Kinyarwanda. The Mechanism also launched a new version of its database on case law in March 2017 and expanded the content and reach of its social media platforms, including Facebook, Twitter, LinkedIn, Flickr and YouTube.

VI. Conclusion

84. The Mechanism's progress in completing its judicial and other work swiftly, while maintaining the highest of standards, underscores its commitment to the mandate entrusted to it by the Security Council and to serving as an efficient and effective model for international criminal justice institutions. Even as the Mechanism moves into a phase of intense judicial activity, prepares to assume responsibility for the relevant remaining aspects of the work of the International Tribunal for the Former Yugoslavia upon the closure of that Tribunal at the end of 2017 and takes the final steps necessary to be fully self-standing, it will continue to focus on carrying out its mandate in accordance with best practices and due process and in a timely, lean and efficient manner.

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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Seventy-second year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the twenty-fourth and final annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex), which states that:

The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

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Letter of transmittal

Letter dated 1 August 2017 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the twenty-fourth and final annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 1 August 2017, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the Tribunal.

(*Signed*) Carmel **Agius**
President

Twenty-fourth and final annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The twenty-fourth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2016 to 31 July 2017. It is the Tribunal's final annual report, pending its anticipated closure on 31 December 2017.

The Tribunal continued to make solid progress towards the final implementation of its completion strategy. All 161 individuals indicted for serious violations of international humanitarian law are accounted for, and only two substantive cases remain: one trial and one appeal. Both cases are on track for delivery of judgment by 30 November 2017, with judges and staff working extremely hard to ensure that all judicial work is completed on time. There is still one pending contempt case, with Serbia continuing to refuse to execute arrest warrants for the accused. The present report details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's firm commitment to completing its proceedings expeditiously and in accordance with due process and fair trial rights.

During the reporting period, Judge Carmel Agius (Malta) continued to serve as President of the Tribunal and Judge Liu Daqun (China) as Vice-President. The President and Vice-President continued to monitor the progress of cases and undertake measures to prevent and avoid delays, including by attempting to counter staff attrition.

In addition to the core judicial work, the Tribunal's liquidation efforts remained a key priority and, indeed, picked up pace during the reporting period. The Tribunal is committed to a smooth and successful liquidation process and to learning from the experience of the International Criminal Tribunal for Rwanda. As part of those activities, the International Tribunal for the Former Yugoslavia continued to work hard to ensure the smooth transition of its functions to the International Residual Mechanism for Criminal Tribunals.

Under the leadership of the President, the Tribunal also continued to make the most of its final opportunities to consolidate its image in the region of the former Yugoslavia and beyond, through its Legacy Dialogues, a series of legacy and closing events.

The Office of the Prosecutor remained focused on expeditiously completing its trial and appeal proceedings, while simultaneously managing its downsizing process and transferring its functions to the Office of the Prosecutor of the Mechanism. It continued to rely on the cooperation of States as required by article 29 of the Tribunal's statute and remained committed to promoting effective war crimes prosecutions in the former Yugoslavia, but deplores Serbia's return to a practice of non-cooperation with the Tribunal in relation to the arrest and transfer of indictees.

The Registry continued to provide legal, administrative, technical and logistical support to the Tribunal's judicial activities, while also focusing on and coordinating the Tribunal's liquidation, including preparations for further downsizing and the transfer of records to the Mechanism, in the light of the Tribunal's imminent closure.

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I. Introduction

1. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 presents herein its twenty-fourth annual report to the General Assembly and Security Council, this being the Tribunal's final annual report before its closure on 31 December 2017. The twenty-fourth annual report outlines the activities of the Tribunal for the period from 1 August 2016 to 31 July 2017.

2. During this final reporting period, the Tribunal continued to make solid progress towards the successful conclusion of its mandate and the ultimate implementation of its completion strategy, as endorsed by the Security Council in its resolution 1503 (2003) and 1534 (2004). It remains on track to close by 31 December 2017. All 161 individuals indicted for serious violations of international humanitarian law are accounted for, and only two substantive cases remain: one trial case, involving one individual, and one appeal case, involving six individuals. In the final trial case of *Prosecutor v. Ratko Mladić*, closing arguments were presented in December 2016 and the Trial Chamber is fully engaged in deliberations and in the drafting of the judgment. In the final appeal case of *Prosecutor v. Jadranko Prlić et al.*, the appeal hearing was held in March 2017, and the Appeals Chamber is likewise fully focused on ongoing deliberations and judgment drafting. In both cases, the estimate for delivery of judgment remains unchanged at November 2017, as previously forecast.

3. In the pending contempt case of *Prosecutor v. Jojić et al.*, however, Serbia has continued to refuse to cooperate with the Tribunal throughout the reporting period and again failed to execute arrest warrants for the indictees, which were issued in January 2015. Following the reported death in June 2017 of one of the three accused, it is expected that the case against Jovo Ostojić will be terminated by the Trial Chamber.

4. Throughout the reporting period, Judge Carmel Agius (Malta) and Judge Liu Daqun (China) continued to serve as President and Vice-President of the Tribunal, respectively. Serge Brammertz (Belgium) continued to serve as Prosecutor and John Hocking (Australia) as Registrar.

5. Each organ of the Tribunal continued to undertake measures to ensure completion of the Tribunal's mandate by the end of 2017, not only with respect to concluding the remaining judicial work, but also by focusing on the need for an efficient liquidation process and smooth final transition to the International Residual Mechanism for Criminal Tribunals. In addition, under the leadership of President Agius, the Tribunal continued to focus on consolidating its legacy prior to its closure, both in the region of the former Yugoslavia and beyond, through its Legacy Dialogues, a series of legacy and closing events.

II. Activities involving the entire Tribunal

A. President

6. President Agius oversaw the Tribunal's work during the final annual reporting period, cooperating closely with the Registrar, judges and management to ensure the timely completion of the remaining trial and appeal cases and a smooth and successful liquidation process. While his primary focus remained on his judicial work and on meeting his responsibilities to close the Tribunal by 31 December 2017, the President also continued to work on consolidating the image of the

Tribunal through the Legacy Dialogues events. In addition, the President oversaw the Tribunal's continued reporting requirements in relation to an evaluation of the methods and work of the Tribunal undertaken in 2016 by the Office of Internal Oversight Services (OIOS). The President represented the Tribunal at international forums and met with representatives of various countries, as well as high-level officials of the United Nations. Further details on all activities are provided below.

1. Ensuring timely completion of the Tribunal's judicial work

7. The President and Vice-President coordinated closely with judges, management and staff of the Tribunal to ensure that the final trial and appeal proceedings remain on track for completion by November 2017 and to reduce the risk of potential delays.

8. The President and Vice-President continued to actively monitor the progress of the remaining cases, with the Trial and Appeals Scheduling Working Group, chaired by the Vice-President, continuing to meet regularly to monitor and report on trials and appeals, ensure that cases are kept on track and identify and prevent any possible causes of delay. Both the President and Vice-President took all possible measures to prevent and address the impact of continued staff attrition, which constitutes the most significant threat to the Tribunal's ability to conclude all judicial work on time. Such measures included assigning additional legal staff to teams requiring assistance as a result of the departure of highly experienced staff, offering promotions as an incentive to retain staff and continuing to explore the possibility of other retention incentives.

9. In particular, in October 2016, the Tribunal presented to the Department of Management a proposal for retention incentives for staff members who remain at the Tribunal until the end of their respective contracts, in the hope that it would be submitted for the urgent consideration of the General Assembly. The proposal is similar to a previous proposal submitted by the Tribunal in 2008, which was endorsed by the International Civil Service Commission and recommended by the Advisory Committee on Administrative and Budgetary Questions, but unfortunately, no final action was taken by the Fifth Committee of the General Assembly. Unlike in 2008, when the previous proposal was submitted, the Tribunal's completion strategy has a firm target date of 31 December 2017, and staff attrition has already reached a critical level. In addition, the Tribunal's downsizing plan has largely been implemented, meaning that there are far fewer staff members eligible for retention incentives and the costs involved are considerably reduced. Finally, the revised proposal applies only to the Tribunal, unlike the previous proposal, which applied also to the International Criminal Tribunal for Rwanda. Unfortunately, the Tribunal has not received a definitive response from the Department of Management to its proposal of October 2016, which has not been presented to the General Assembly. The President followed up with a letter addressed to the Under-Secretary-General for Management in April 2017 and subsequently raised the proposal in a series of meetings, including with the Secretary-General, in May 2017. The President thanks the Secretary-General for his receptivity and his understanding of the situation. The Tribunal is still awaiting a final response to the proposal.

10. Despite the considerable challenges posed by rapidly declining staff numbers, the Tribunal's judges and staff continued to work extremely hard during the reporting period in order to be able to meet strict internal deadlines for deliberations and drafting in the remaining cases. Staff members are already working overtime to complete the mandate, and the load and pace of work are only expected to increase in the lead-up to the delivery of judgment. The President takes this opportunity to express his deep and heartfelt gratitude to all staff members for their outstanding work, efforts and dedication during this final chapter of the Tribunal's existence.

2. Relations with Governments and international organizations

11. During the reporting period, President Agius made presentations regarding the Tribunal's work to the principal organs of the United Nations and the Informal Working Group on International Tribunals. On 9 November 2016, the President addressed the General Assembly to present the Tribunal's twenty-third annual report (A/71/263-S/2016/670). On 8 December 2016, he addressed the Security Council to present the Tribunal's twenty-sixth completion strategy report (S/2016/976). On 7 June 2017, he addressed the Security Council to present the Tribunal's twenty-seventh completion strategy report (S/2017/436).

12. In addition, during his missions to New York and on the margins of his addresses to the General Assembly and Security Council, President Agius met with representatives of Member States, officials of the Office of Legal Affairs and representatives of the Department of Management. The President also met for a final time with the then-Secretary-General, Ban Ki-Moon, in November 2016 and had his first meeting with the current Secretary-General, António Guterres, in May 2017.

13. Various representatives of Governments and judiciaries visited the Tribunal during the reporting period and met with the President, judges and other officials to learn about and discuss the Tribunal's work, achievements and challenges. President Agius received visits from, among others, the ambassadors of Austria, Bosnia and Herzegovina, Canada, Croatia, Denmark, Finland, Israel, Italy, Norway, Serbia, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland, as well as the chargé d'affaires of the Russian Federation. In addition, he received both the Director General for Legal Affairs and Legal Adviser of Germany and the Federal Public Prosecutor General of Germany. Further, in March 2017, a delegation of judges from Panama conducted a visit to the Tribunal.

14. In addition to his missions to New York, President Agius travelled to Brussels in October 2016 and May 2017, to meet with members of the European Commission for the purposes of discussing, inter alia, the Tribunal's outreach programme, as well as its legacy and closing events. In February 2017, the President conducted a mission to Zagreb, the first in a series of visits to the region of the former Yugoslavia during the Tribunal's final year. In May 2017, he travelled to Nuremberg, Germany, to participate in a seminar dedicated to discussions of the Tribunal's legacy, organized by the International Nuremberg Principles Academy. The President undertook a further mission to Brussels in May 2017 to attend the second European Union Day Against Impunity, where he spoke about the Tribunal's legacy. In June 2017, President Agius conducted a mission to Bosnia and Herzegovina, his second to the region, which was followed by the Tribunal's final Legacy Dialogues event, a conference held in Sarajevo from 22 to 24 June. He returned to Bosnia and Herzegovina soon afterwards to attend a commemoration ceremony at the Potočari Memorial Centre, on 11 July 2017, which marked the twenty-second anniversary of the genocide in Srebrenica. In his speech at the ceremony, the President directed three specific messages: to the deniers of the genocide, to the victims and their families and to the leaders of Bosnia and Herzegovina.

3. Judicial activity

15. The statute of the Tribunal, the Rules of Procedure and Evidence and the Practice Directions confer upon the President certain judicial functions. In carrying out such duties during the reporting period, and in addition to his responsibilities as presiding judge on the *Prlić et al.* case, President Agius issued orders and decisions in his capacity as President (many of which were issued confidentially), including

numerous orders relating to the assignment of cases to Chambers, and five decisions and orders in respect of motions filed before the President by Ratko Mladić. In addition, Vice-President Liu issued three decisions and orders in his capacity as Acting President in respect of motions filed by Ratko Mladić where a conflict of interest arose with respect to the President.

4. Transition to the International Residual Mechanism for Criminal Tribunals

16. The branch of the International Residual Mechanism for Criminal Tribunals located at The Hague commenced operations on 1 July 2013. During the reporting period, the President of the Tribunal continued to oversee and to take steps to ensure the smooth handover of all relevant and remaining functions to the Mechanism by 31 December 2017, including through regular meetings with the Registrar and the Tribunal's Coordination Council and meetings of the Records and Archives Working Group and the Liquidation Taskforce. In this respect, the President of the Tribunal also continued to coordinate and communicate with the President of the Mechanism.

5. Liquidation

17. In addition to the judicial caseload, the Tribunal's liquidation activities have been, and will remain, a key priority for the President during the last phase of the Tribunal's existence. While the Tribunal has already undertaken various liquidation activities over the past several years, such activities significantly picked up pace during the final reporting period.

18. Under the supervision of the Registrar, the Liquidation Taskforce continued to meet on a regular basis to guide the timely end of the Tribunal's functions and ensure a smooth handover to the Mechanism; a number of staff downsizing exercises took place, in line with existing schedules; over 90 per cent of assets were approved for transfer to the Mechanism, with the remainder slated for donation or disposal in line with the Tribunal's asset disposal project plan; the Tribunal's Procurement Section continued to work towards ensuring that all contractual responsibilities of the Tribunal are either transferred to the Mechanism or established in the name of the Mechanism before the Tribunal's closure; and the disposition of the Tribunal's physical and digital records, including the transfer of relevant records to the Mechanism, continued apace under the guidance of the Tribunal's Records and Archives Working Group.

19. The President and the Tribunal are committed to a smooth, efficient, timely and successful liquidation and have taken on board several lessons learned from the liquidation experience of the International Criminal Tribunal for Rwanda.

6. Legacy and closing events

20. In addition to its core judicial and liquidation efforts, the Tribunal has, under the leadership of the President, continued to focus on how it can best consolidate its legacy before closure and ensure a long-lasting impact, particularly in the region of the former Yugoslavia. During the final reporting period, the Tribunal organized and hosted a number of events as part of its Legacy Dialogues series with the active involvement of the Planning Committee, which includes representatives of the Office of the President, the Registry, the Office of the Prosecutor and the Association of Defence Counsel.

21. As one of the key events in the Legacy Dialogues series, the Tribunal hosted a final conference in Sarajevo, from 22 to 24 June 2017, which provided an opportunity for experts, practitioners and stakeholders from the region and beyond to discuss and learn from the Tribunal's achievements, challenges and experiences. A series of conclusions and recommendations reflecting the discussions and

outcomes of the conference were adopted during the final session and are attached hereto (see annex). Other legacy events during the reporting period included public screenings of the Tribunal's latest documentaries, a public discussion between the first and final registrars of the Tribunal, Theodoor van Boven and John Hocking, and a two-day workshop for teachers from the former Yugoslavia on how to make use of the Tribunal's archives.

22. Shortly before its closure, the Tribunal will host a final academic symposium at The Hague, on 18 December 2017, to be followed by an official closing ceremony on 19 December 2017. In addition, a formal commemoration will be held in New York on 4 December 2017.

B. Bureau

23. Pursuant to rule 23 of the Rules of Procedure and Evidence, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. With only one Trial Chamber remaining, the Bureau now comprises President Agius, Vice-President Liu and Judge Alphons Orie, the presiding judge of Trial Chamber I. During the reporting period, the President regularly consulted the Bureau on general policy matters of the Tribunal, as well as on specific legal, procedural and operational issues.

C. Coordination Council

24. Pursuant to rule 23 bis of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. The Council held several meetings during the reporting period to discuss, inter alia, progress towards the implementation of the completion strategy, archiving, budgetary concerns, the transition of Tribunal functions to the Mechanism and the evaluation of the Tribunal undertaken by OIOS, as described below.

D. Plenary sessions

25. During the reporting period, the judges of the Tribunal met in plenary on three occasions: at an extraordinary session on 15 November 2016, during which amendments to the Tribunal's Rules of Detention were adopted, and at two regular plenary sessions on 1 February and 17 July 2017.

E. Rules Committee

26. The judicial membership of the Rules Committee comprised Vice-President Liu (Chair), President Agius and Judges Alphons Orie and Christoph Flügge. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. There were no meetings of the Rules Committee during the reporting period.

F. Evaluation by the Office of Internal Oversight Services

27. By its resolution 2256 (2015), the Security Council requested OIOS to carry out an evaluation with respect to the methods and work of the Tribunal and to present its report by 1 June 2016. Pursuant to that resolution and to the OIOS evaluation, the Tribunal reported in full on the implementation of OIOS

recommendations in its semi-annual report submitted to the Security Council on 17 November 2016, including its adoption, on 6 July 2016, of a code of professional conduct for the judges of the Tribunal (see S/2016/976, enclosure VII).

28. By its resolution 2329 (2016), the Security Council, inter alia, encouraged the Tribunal to continue to report on its implementation of OIOS recommendations. Owing to limited time and resources in the lead-up to its closure and the urgent need to focus on the completion of the remaining judicial work, the Tribunal, in its subsequent semi-annual report to the Security Council, dated 17 May 2017 (S/2017/436), reaffirmed its prior response to the recommendations, as set out in the previous report (S/2016/976).

G. Gender balance

29. The Tribunal is pleased to report that overall, as of March 2017, women make up 59 per cent of Tribunal staff in the Professional category across all departments and 53 per cent of General Service staff. The Tribunal is particularly proud that it has achieved equal representation of women among its staff, including at the higher-level positions. It has also benefited over many years from the establishment of a focal point for women. While it is unfortunate that there are no women judges or principals at the end of the Tribunal's mandate, the Tribunal wishes to acknowledge the remarkable contribution made in previous years by women judges, prosecutors and registrars and notes that, at one point, all three principals were women.

III. Activities of the Chambers

A. Composition of the Chambers

30. Seven permanent judges from seven countries currently serve at the Tribunal: Carmel Agius (President, Malta), Liu Daqun (Vice-President, China), Alphons Orie (Netherlands), Fausto Pocar (Italy), Theodor Meron (United States of America), Bakone Justice Moloto (South Africa) and Christoph Flügge (Germany). In addition, during the reporting period, Judge Burton Hall (Bahamas) served as an ad hoc Appeals Chamber judge.

31. During the reporting period there remained only one Trial Chamber, composed of Judges Orie (presiding), Flügge and Moloto, with responsibility for the *Mladić* case and *Jojić et al.* case.

32. The Appeals Chamber in the *Prlić et al.* case was composed of Judges Agius (presiding), Liu, Pocar, Meron and Moloto. Since Judge Moloto is also part of the Trial Chamber in the *Mladić* case, he could not be assigned to interlocutory appeals from the same case. As a result, there was an insufficient number of judges to enable the Appeals Chamber to deal with any interlocutory appeals from the *Mladić* case.

33. The Tribunal requested the assistance of the Security Council in finding a solution and, on 6 September 2016, through its resolution 2306 (2016) the Council unanimously agreed to amend the statute of the Tribunal by adding a new article 13 quinquies, which allows for the appointment of an ad hoc judge in the event that no permanent judge is available for assignment to the Appeals Chamber. Subsequently, Judge Hall (Bahamas) was appointed as an ad hoc judge and assigned to three interlocutory appeals from the *Mladić* case.

34. The Tribunal once more wishes to express its sincere gratitude to the members of the Security Council for their cooperation and assistance in this matter.

B. Principal activities of the Chambers

1. Trial Chamber I

Mladić

35. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The trial commenced on 16 May 2012 and the evidentiary phase was concluded in August 2016, with closing arguments presented by the parties on 15 December 2016. The Trial Chamber is presently fully engaged in deliberations and in the drafting of the judgment, with the estimate for delivery of judgment remaining November 2017. The judges and legal support team have taken a variety of measures to minimize delays in the preparation of the trial judgment, including involving additional staff resources in the drafting process. Although such resources have been assigned, highly qualified staff members have left during the reporting period and are expected to continue to leave the Tribunal for more secure employment elsewhere. It will therefore be an increasing challenge to maintain the continuity of core staff, which is of utmost importance in a case of such size and complexity.

Jojić et al.

36. Petar Jojić, Jovo Ostojić and Vjerica Radeta were charged with four counts of contempt of court in relation to alleged witness intimidation in the trial case of *Prosecutor v. Vojislav Šešelj*. The proceedings of the *Jojić et al.* case were confidential until 1 December 2015, and arrest warrants have been pending execution in Serbia for more than two and a half years, since 19 January 2015. On 5 October 2016, international arrest warrants for the accused were issued confidentially by the Trial Chamber and were later released either publicly or in a public, redacted form on 29 November 2016. On 24 March 2017, the International Criminal Police Organization (INTERPOL) informed the Registry that it had issued red notices for the arrest of the accused, effective 16 March 2017. As reported and urged by President Agius on numerous occasions, it is imperative that the Security Council urgently find a solution for this case so that impunity is avoided. The amicus curiae prosecutor in the *Jojić et al.* case recently informed the Trial Chamber of the death of one of the accused, Jovo Ostojić. Once his death has been officially confirmed, it is expected that the case against Mr. Ostojić will be terminated by the Trial Chamber.

2. Appeals Chamber

Interlocutory appeals

37. The Appeals Chamber issued several decisions and orders in respect of three interlocutory appeals filed by Ratko Mladić during the reporting period. Some of those were issued confidentially and therefore cannot be discussed herein. On 27 February 2017, the Appeals Chamber issued a public decision dismissing an interlocutory appeal by Mr. Mladić against a decision of the Trial Chamber, which had rejected Mr. Mladić's allegations that his rights to a fair trial and the presumption of innocence had been compromised. The Appeals Chamber found that Mr. Mladić had failed in multiple respects to demonstrate that the Trial Chamber had erred in its decision. On 30 June 2017, the Appeals Chamber issued a public, redacted version of a decision on Mr. Mladić's interlocutory appeal against the Trial Chamber's decision on an urgent defence motion for provisional release. The Appeals Chamber found that Mr. Mladić had failed to demonstrate a discernible

error of the Trial Chamber in its denial of provisional release. In connection with that decision, the Appeals Chamber issued an order on 24 May 2017 for an expedited response and reply to the motion.

Appeals from judgment

38. In the *Prlić et al.* case, briefing was completed on 29 May 2015 and the appeal hearing was held from 20 to 28 March 2017. The anticipated time frame for delivery of the appeal judgment remains November 2017. As previously reported, this is the most voluminous appellate case in the history of the Tribunal and international criminal law, with seven appellants (including the Office of the Prosecutor), a combined total of over 500 grounds and sub-grounds of appeal and 12,196 pages of appellate submissions dealing with a trial judgment of more than 2,000 pages. Although additional staff resources have been assigned in order to ensure that the November 2017 deadline can be met, several highly qualified staff members left the Tribunal during the reporting period for more secure employment elsewhere, and further staff departures are imminent. As with the *Mladić* case, it will be increasingly difficult to retain core staff members familiar with the voluminous case records and appeal briefs and the working methods of the Tribunal.

Other appeals

39. A total of 16 pre-appeal and appeal decisions and orders, all arising from the *Prlić et al.* case, were issued during the reporting period.[1]

IV. Activities of the Office of the Prosecutor

A. Completion of trials and appeals

40. During the reporting period, the Office of the Prosecutor remained focused on expeditiously completing its final trial and appeal proceedings, while simultaneously managing its downsizing process. The Office continued to reallocate staff and resources flexibly to ensure that all court-ordered deadlines are met. The Office also continued to assist officials and personnel of the Mechanism in transferring functions in accordance with the transitional arrangements.

41. In the current reporting period, the Office of the Prosecutor made its closing arguments in the Tribunal's final trial (*Mladić*) and oral arguments in the Tribunal's final appeal (*Prlić et al.*). Both cases remain on track to be completed by the end of November 2017.

B. Management

42. The Office of the Prosecutor continued its downsizing process to reduce the number of posts on the basis of the completion of relevant phases of the trial and appeal proceedings. At the end of 2016, the Office had a total of 78 staff members, following the abolition of 23 Professional and 12 General Service posts in 2016. Upon completion of major activities in the *Mladić* case and the *Prlić et al.* case, the Office abolished 13 Professional and 3 General Service posts on 28 February 2017, and it abolished 15 Professional and 2 General Service posts on 30 April 2017. In accordance with the approved budget, the Office abolished an additional 3 General Service posts on 30 June 2017, for a total of 28 Professional and 8 General Service posts abolished in the first half of 2017.

[1] This figure includes orders and decisions filed as of 31 July 2017.

43. The Office is actively supporting measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. The Office continues to support training of its staff members and to assist staff in taking advantage of the services offered by the Career Transition Office. In that regard, the Office of the Prosecutor is facilitating networking and other opportunities to assist its staff members and to ensure recognition of their considerable transferable skills, which are highly relevant to other core components of the Organization's work.

44. Resource-sharing between the Office of the Prosecutor of the Tribunal and that of the Mechanism continued during the reporting period, with the implementation of the "one office" approach to integrate the staff and resources of the two offices. Under that policy, all prosecution staff members are available to double-hat, so that they can be flexibly assigned to either Tribunal- or Mechanism-related work, depending on operational requirements and their case-related knowledge.

C. Cooperation

45. In order to fulfil its mandate, the Office of the Prosecutor relies on the full cooperation of States, as required under article 29 of the statute of the Tribunal.

46. The Office of the Prosecutor continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia during the reporting period.

47. However, the Office deplores the fact that Serbia has returned to a practice of non-cooperation with the Tribunal in relation to the arrest and transfer of indictees. The country's failure over the past two and a half years to execute the Tribunal's arrest warrants for three Serbian indictees is in violation of its international legal obligations and its own repeated commitments to fully cooperate with the Tribunal. That Serbia may have cooperated in the past, or may be cooperating in other areas today, only serves to underscore that it can cooperate when it has the will to do so. The absence of political will to cooperate with the Tribunal further calls into question the country's commitment to justice for war crimes and its adherence to the rule of law. When previously faced with Serbia's long-standing failure to arrest and transfer indictees to the Tribunal, the policy of conditionality proved the most effective tool. It will also be crucial for Member States to maintain the principled position of insisting on the country's full cooperation with the Tribunal in their bilateral dealings.

48. Cooperation and support from States outside the former Yugoslavia and from international organizations remains integral to the successful completion of Tribunal cases. Continued assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including witness relocation. The Office of the Prosecutor once again acknowledges the support it received during the reporting period from States Members of the United Nations and from international organizations, including the United Nations and its entities, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the Council of Europe.

D. Transition from the International Tribunal for the Former Yugoslavia to national war crimes prosecutions

49. The Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia through ongoing dialogue with counterparts and efforts to build capacity in the national justice sectors. The

effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental to building and sustaining the rule of law, as well as for truth-seeking and reconciliation. With the completion of the Tribunal's mandate approaching, accountability for those crimes now depends on national prosecution offices and judiciaries.

50. During the reporting period, the Office continued to assist national judicial authorities in the former Yugoslavia to more successfully handle their war crimes cases. The joint European Union/International Tribunal for the Former Yugoslavia Training Project for National Prosecutors and Young Professionals from the former Yugoslavia has been a central component of the Office's efforts. The Office of the Prosecutor is pleased to report that, following a unanimous request from national prosecution services in the region, the European Union has now agreed to extend both components of the Training Project for another two-year period. The Training Project will also be transitioned from the Tribunal to the Office of the Prosecutor of the Mechanism. The Office of the Prosecutor of the Tribunal is grateful to the European Union for its consistent support for this important project and for recognizing the ongoing need to build national justice sector capacity by educating and training young lawyers from the region in Tribunal offices.

51. As the Tribunal nears the completion of its mandate, the ongoing, widespread denial of crimes and non-acceptance of facts established in its judgments should be regarded as a matter of acute concern with real consequences for reconciliation and stability in the western Balkans today. The denial of crimes and revisionism are both widespread throughout the region. Convicted war criminals are often glorified as heroes. The facts of the crimes are taught in classrooms around the world, but not in the countries where the crimes were committed. Today, such denial and such revisionism are feeding regional instability and undermining neighbourly relations. National and communal identities founded on false histories are inherently sources of regional tension and distrust. With the upcoming closure of the Tribunal, it is now more important than ever to address this challenge. To secure a peaceful future, there must be shared agreement on the recent past.

52. Judicial cooperation between the countries of the former Yugoslavia is essential to ensuring that those responsible for war crimes are held accountable. Many suspects may not be present in the territory where they are alleged to have committed the crimes and cannot be extradited to the territorial State for prosecution. The Offices of the Prosecutor of both the Tribunal and the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice. Unfortunately, during the reporting period, there was little evidence of change in a more positive direction. In addition to the issues previously noted, the Office has received alarming reports indicating that judicial cooperation between Serbia and Kosovo[2] as regards war crimes has completely broken down. Countries in the region continue to issue and maintain unknown numbers of non-public international arrest warrants, and contentious extradition litigation in third-party States represents a failure of regional judicial cooperation. The urgent need to address those challenges has been demonstrated again during the reporting period. The status quo is increasingly unsustainable and causing real damage to diplomatic relations.

53. Overall, progress in national prosecutions of war crimes, crimes against humanity and genocide committed in the former Yugoslavia is mixed, with some positive trends and some situations of significant concern. The Office of the Prosecutor is pleased to note that, in Bosnia and Herzegovina, positive trends in

[2] All references to Kosovo in the present document shall be understood to be in full compliance with Security Council resolution 1244 (1999).

national prosecutions continued during the reporting period. The Prosecutor's Office of Bosnia and Herzegovina continued to investigate and prosecute complex cases, as appropriate, in accordance with the country's national war crimes strategy, including cases involving senior- and mid-level suspects and cases concerning conflict-related sexual violence. Those results demonstrate again that national prosecutions, appropriately supported by international partners, can meaningfully advance accountability, including in the most complex cases. Regarding Croatia, there was some progress during the reporting period, in that its Government committed to addressing some outstanding issues in regional judicial cooperation. Separately, however, authorities in Bosnia and Herzegovina and in Serbia have identified a larger number of regional judicial cooperation issues with Croatia that must now be dealt with. Regarding Serbia, regretfully, the immediate outlook for meaningful progress in war crimes justice is negative. Positive results in war crimes investigations and prosecutions remain very limited, with no significant change in the adverse trends that have crystallized over the past few years. In Serbia, impunity for many well-established crimes remains the norm. Commitments to improve this situation remain largely unfulfilled. Decisive steps, at all levels, are needed in order to begin moving in a more positive direction.

54. The Tribunal will complete its mandate before the end of the current year, which will close an important chapter that began 24 years ago. Yet the work towards justice for the victims of war crimes in the former Yugoslavia will continue. The Mechanism will litigate the small number of trials and appeals remaining. Crucially, prosecutions of war crimes, crimes against humanity and genocide must continue in national courts in the region of the former Yugoslavia. The support of the United Nations and the international community to ensure accountability for the horrific atrocities committed remains as essential as ever before.

V. Activities of the Registry

55. During the reporting period, the Registry continued to provide legal, administrative, technical and logistical support to the judicial proceedings of the Tribunal, while simultaneously focusing on preparations for further downsizing and closure of the Tribunal and the transfer of its records to the Mechanism.

56. Registry staff continued to demonstrate flexibility and readiness to accept broader responsibilities in order to offset downsizing and staff departures, while ensuring that services to the Tribunal's final two cases continued undisturbed. Further, the Registry offered the entire spectrum of administrative services necessary for the smooth functioning of the Tribunal, provided assistance to national jurisdictions and managed the Tribunal's outreach programme.

57. The Registry continued providing services and overall administrative support to the Mechanism, assisted in the gradual process of establishing the Mechanism's own self-standing administration and contributed to the strengthening of the working relationship between the two branches of the Mechanism.

A. Office of the Registrar

58. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing the Registry, including supervising all Registry divisions and sections and representing the Tribunal in its relations with the host State and other Member States, international organizations and external stakeholders. It provided legal and policy advice, including on the Tribunal's liquidation activities.

The Office also assisted in representing the Tribunal in its relations with the various organs of the United Nations.

59. Until 31 December 2016, the Office continued to support the Registrar, working hand-in-hand with Mechanism staff on managing the operations of the Mechanism Registry, both in Arusha and at The Hague, with a special focus on supporting judicial proceedings before the Mechanism, finalizing its policies and operating procedures and assisting in recruitment exercises.

B. Division of Judicial Support Services

60. The Division of Judicial Support Services consists of the Court Support Services Section, the Judicial Records Unit, the United Nations Detention Unit and the Conference and Language Services Section. The Court Support Services Section has four units: the Witness Support and Operations Unit and the Witness Protection Unit (collectively referred to as the Victims and Witnesses Section), the Courtroom Operations Unit and the Office for Legal Aid and Defence.

61. During the reporting period, the Registry supported one case in trial and one on appeal, involving a total of seven accused persons, and filed approximately 108 legal submissions relevant to the Tribunal's ongoing or concluded cases. The Registry also supported one contempt case at the pre-trial stage involving, three accused persons.

1. Court Support Services Section and Judicial Records Unit

62. During the reporting period, the Victims and Witnesses Section provided assistance prior to, during and after testimony to the last witness in the *Mladić* case, who testified partly at The Hague and partly by videoconference link. The Section also took active steps to address the security-related concerns of witnesses, including in cases that have resulted in relocation. Finally, it continued to work closely with the Mechanism to finalize policies and procedures across the two branches of the Mechanism.

63. The Courtroom Operations Unit supported one trial and one appeal over the reporting period. It also assisted one self-represented accused person through its *Pro Se* Office.

64. As of 31 July 2017, the Judicial Records Unit had processed 548 filings (22,379 pages) and 60 transcripts in English and French (5,141 pages). The Unit also facilitated the sharing and transfer of judicial records between the Tribunal and the Mechanism.

65. The Office for Legal Aid and Defence continued to administer the Tribunal's legal aid system, overseeing more than 50 defence team members. All seven of the individuals in trial and appeal proceedings during the reporting period were found partially unable to remunerate counsel and were thus granted legal aid. All cases except one were ranked at the highest complexity level. The Office also administered the appointment and remuneration of amici curiae and provided assistance on legal, policy and operational matters relating to the management of the Mechanism's legal aid system.

2. United Nations Detention Unit

66. The United Nations Detention Unit continued to support both the Tribunal and the Mechanism and was responsible for detaining six individuals under the Tribunal's authority in conditions exceeding the relevant international standards. It facilitated the presence of the detainees at court hearings, implemented one

provisional release decision and facilitated medical examinations by court-appointed medical experts. Detainees were provided with in-house medical care and specialist medical assistance. In addition, the Unit continued to work with the International Committee of the Red Cross to meet the specific needs of an ageing detainee population.

3. Conference and Language Services Section

67. The Conference and Language Services Section provided interpretation, translation and court reporting services for the Tribunal, resulting in approximately 10,200 pages of translation and 173 conference interpreter days over the year. Notably, the Section provided support for the final phase of the last Tribunal trial, the *Mladić* case, and continued to provide support to the Mechanism under the double-hatting arrangement. Careful scrutiny of translation requests to avoid duplication resulted in savings of approximately $56,000 over the reporting period.

C. Transfer of records

68. The Records and Archives Working Group established by the Registrar during the previous reporting period continued to monitor progress in the destruction of Tribunal records or their transfer to the Mechanism. The Mechanism Archives and Records Section continued to support the Tribunal offices in that regard. As at the time of reporting, the Tribunal had destroyed or transferred 71.8 per cent of the estimated total volume of its physical records and approximately 88 per cent of its digital records.

D. Communications Service

69. During the reporting period, the Communications Service continued to provide communications, press and social media support in respect of the Tribunal's judicial and other activities and to manage the Tribunal's outreach programme.

70. The Service coordinated educational visits to the Tribunal and the Mechanism for more than 300 groups, welcoming over 6,500 visitors. The Tribunal's website recorded more than 2.4 million page views. The website is being restructured and redesigned, and its content revised, to facilitate its evolution into the Tribunal's legacy website.

71. The Service continued to work with local authorities and international partners to establish information centres in the former Yugoslavia in accordance with Security Council resolution 1966 (2010). The agreement with the authorities of Sarajevo was finalized, while the agreement with the Srebrenica-Potočari Memorial Centre is pending approval by authorities in Bosnia and Herzegovina. The Tribunal is cooperating with the authorities in Croatia to establish an information centre within the national library in Zagreb and hopes that Serbia will be amenable to establishing a centre in Belgrade.

72. In the Tribunal's final year, the outreach programme extended its efforts to inform people in the former Yugoslavia about the Tribunal. The Tribunal's field offices in Serbia and in Bosnia and Herzegovina organized more than 20 events, reaching over 1,200 individuals. The seventh in the series of the outreach programme's documentaries about the work of the Tribunal, entitled "Never justified: ICTY and the crime of torture", was completed and screened in Bosnia and Herzegovina. A short video feature, entitled "End to impunity", was produced, summarizing the 24 years of work and achievements of the Tribunal. Ten television

stations in the former Yugoslavia and United Nations Television have agreed to broadcast the latest documentary produced by the outreach programme. In addition, the programme launched and distributed the publication, entitled "15 Years of Outreach at the ICTY".

73. The European Union generously provided the funds necessary to support the continuation of the Tribunal's outreach programme until the Tribunal's closure. Together with Austria, Finland, Germany, Italy, Malta, the Netherlands and Switzerland, the European Union has also provided generous support for the ongoing Legacy Dialogues series of events.

E. Administration Division

74. By its resolution 71/268, the General Assembly approved the Tribunal's proposed programme budget and appropriated a revised amount of $98,064,000 gross ($86,917,900 net) for the biennium 2016-2017. The amount represents a 52 per cent decrease as compared to the revised appropriation for the biennium 2014-2015.

75. During the biennium 2016-2017, extrabudgetary resources are estimated at $1,000,000, to be used for a variety of Tribunal activities. During the reporting period, the Tribunal administered several extrabudgetary initiatives, including outreach activities in the former Yugoslavia and training programmes for young prosecutors.

76. Under the direction of the Registrar, the Administration Division remains on track with the implementation of the Tribunal's administrative liquidation plan and has taken on board lessons learned from the liquidation exercise of the International Criminal Tribunal for Rwanda, with a view towards optimizing the current process. Most liquidation activities will be completed by the end of the year. A small number of residual tasks will be addressed by the Mechanism. All assets that will be required by the Mechanism have already been identified and transferred; any remaining assets will continue to be disposed of, monitored by the Assets Disposal Working Group of the Liquidation Taskforce. All staff-related financial liabilities are being identified and will be reported in the second performance report, to be issued in the second half of 2017.

77. As part of the Tribunal's completion strategy, the Administration Division remained actively engaged in overseeing and managing the Tribunal's downsizing in accordance with the Tribunal's well-established downsizing and comparative review process, which had been negotiated and agreed to by staff and management. The Tribunal is on track to eliminate all Tribunal posts by 31 December 2017. The Office of Internal Oversight Services has noted that the comparative review and downsizing process implemented at the Tribunal represented "best practice in leadership of a change process".

78. The Tribunal's Career Transition Office continued to support staff in all aspects of career transition by offering training courses, organizing workshops and providing advice to individual staff.

79. Finally, the Division provided overall administrative support and services to the Mechanism in the areas of human resources, general services, procurement, finance, information technology and security during the reporting period. In anticipation of the Tribunal's closure at the end of 2017, it continued to support the Mechanism in the transition to a lean, self-standing administration.

VI. Conclusion

80. The Tribunal is only five months away from closure. While it made significant progress towards the completion of its mandate during its final reporting period and is still on track to close on 31 December 2017, considerable efforts remain to be made before all work is successfully concluded. Indeed, the Tribunal's final chapter will undoubtedly be one of the busiest and most challenging periods in its history. The main focuses will be threefold: (a) the Tribunal's core judicial work, being the pending trial and appeal proceedings, must be completed by 30 November 2017, when the mandate of the judges will end; (b) at the same time, the Tribunal will continue to further ramp up its liquidation efforts, including through the implementation of its final downsizing exercises, the disposal or transfer of all its remaining records and assets and the transfer of its remaining functions to the Mechanism; and (c) the Tribunal will continue to take advantage of precious final opportunities to consolidate its legacy through the remaining events in the Legacy Dialogues calendar.

81. The imminent closure of the Tribunal heralds a significant moment in time, not only for the Tribunal itself, but also for the Security Council, which created the Tribunal, and the General Assembly, which has provided funding for almost a quarter of a century and elected the Tribunal's esteemed judges. The Tribunal wishes to sincerely thank the members of both the Security Council and the General Assembly, together with the United Nations more broadly, for their support throughout the final reporting period and, indeed, during all previous reporting periods. It is also most grateful to the Office of Legal Affairs for the sterling quality of the assistance it has provided to the Tribunal over the past 24 years. In addition, it acknowledges the valuable support rendered by Uruguay, as Chair of the Informal Working Group on International Tribunals, during the two years leading up to the Tribunal's closure. The Tribunal takes the opportunity to ask all Member States, one final time, for their continued support during its closing months, in order to ensure that it can successfully conclude its mandate.

82. Finally, the Tribunal wishes to express its heartfelt thanks to the more than 7,000 staff members, 87 judges, 5 prosecutors and 4 registrars who have served the Tribunal over the past 24 years. It is their exceptional work and dedication that made the Tribunal's myriad achievements possible and ensured that the Tribunal will be able to successfully complete its mandate, beyond all expectations.

Annex

Outcome document of the Legacy Dialogues Conference of the International Tribunal for the Former Yugoslavia

Conclusions and recommendations*

The Conference of the *ICTY Legacy Dialogues* held from 22 to 24 June 2017 in Sarajevo, Bosnia and Herzegovina;

Recalling the special mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY or Tribunal) to bring to justice those most responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991 and thus contribute to the restoration and maintenance of peace in the region;

Given the pioneering role of the ICTY in international law, and the desire to reflect on its 24-plus years of experience with a view to helping others to build on its achievements;

Recognising that, as the first international criminal tribunal created by the United Nations, the ICTY has an important role in sharing its lessons learned with the international community, the region of the former Yugoslavia, as well as with current and future international courts and tribunals;

Recognising that the ICTY has served as a cornerstone in the fight against impunity for crimes committed in the former Yugoslavia and beyond, transforming the landscape of international humanitarian law and contributing to the development of international criminal law;

Having considered the conclusions and recommendations of the various expert panels on ICTY legacies discussed at the final ICTY Legacy Conference, and suggestions made by members of the audience;

In gratitude to all the participants, experts, and donors of the Legacy Conference;

Presents the following conclusions and recommendations in order to assist national and regional courts, as well as present and future international courts and tribunals in the pursuit of justice, and to assist the legacy projects of the ICTY:

Conclusions: normative legacy

1. The ICTY's normative legacy will continue beyond its closure to inform the work of national, regional, and international jurisdictions.

2. The ICTY has made a rich contribution to the development of international humanitarian law, in particular with respect to non-international armed conflict.

3. The ICTY has filled legal gaps regarding definitions of international crimes and has significantly influenced the drafting of the Rome Statute of the International Criminal Court.

4. The ICTY's jurisprudence has served as an important resource for national, regional, and international jurisdictions, as well as for other accountability mechanisms.

* The text of the annex has been reproduced as received, without formal editing.

5. The ICTY has contributed to the establishment of specialised war crimes Chambers in the region, along with inspiring the development of their jurisprudence and procedures.

6. The ICTY's jurisprudence has been used in creative ways by national courts, including beyond the criminal field.

Recommendations: normative legacy

1. Other courts, national, regional, and international, should consider the judgements and decisions of the ICTY as an important source of inspiration and valuable repository of international law.

2. ICTY judgements should, where possible, be integrated into the jurisprudence of national jurisdictions in the former Yugoslavia.

3. The lessons of the ICTY are relevant in terms of realistic expectations of what an international court or tribunal can achieve, and therefore expectations should be managed from the outset to avoid disappointing victims and affected communities, and the wider international community.

4. The ICTY manual on developed "best practices" should be updated for use by other national, regional, and international courts and tribunals.

5. Consideration should be given to making use of ICTY jurisprudence beyond the field of international criminal law.

Conclusions: gender justice

1. The ICTY has shown that it is possible and necessary to undertake the prosecution of sexual and gender-based violence.

2. The ICTY's experience shows there are numerous misconceptions in the way criminal justice actors perceive sexual violence crimes.

3. Gender bias often results in a disproportionately low number of female witnesses.

Recommendations: gender justice

1. Gender perspectives should be integrated into substantive, procedural, and institutional aspects of international criminal law.

2. The understanding of gender should be expanded beyond the issue of sexual violence at the national, regional and international levels, including by looking at other crimes through a gender lens.

3. National, regional, and international institutions dealing with war crimes should consider appointing a focal point for women to assist on gender issues arising in the work place.

4. National, regional, and international courts and tribunals should ensure equal representation of males and females at all levels, including among judges and in senior management positions.

5. War crimes courts should develop a comprehensive institutional framework to provide greater accountability for gender-based crimes that links prosecutions to affected countries.

6. Guidance documents need to be adopted by judicial institutions in order to ensure a standardised approach by judicial actors towards victims within different institutions and professions.

7. Future courts and tribunals should grant women equal access to justice in national jurisdictions, including access to compensation.

8. A comprehensive training program for all relevant actors in war crimes proceedings should be implemented in relation to conflict-related sexual violence crimes and address the stereotypes and misconceptions that can thwart accountability efforts.

Conclusions: non-judicial legacy

1. There is no universally accepted definition of 'reconciliation'.

2. Empirical research suggests that tribunals are often trusted locally if they confirm narratives that are shared by the affected group.

3. Memorialisation of sites of mass atrocities can be seen as a way of bringing the ICTY closer to local communities and acknowledging the suffering of the victims.

4. Under very specific circumstances, it is possible for international courts and tribunals to deter violence against civilians.

5. The creation and work of the ICTY inspired the international concept of transitional justice.

Recommendations: non-judicial legacy

1. Future international courts and tribunals should support efforts dedicated to strengthen local civil society initiatives on accountability and reconciliation.

2. Future international courts and tribunals should commit early on to outreach and media initiatives, which promote memorialisation in the effort to combat denial.

3. Encourage civil society's continued commitment to remind communities that an historical record exists in order to never forget and to acknowledge the pain and suffering of victims.

4. Societies should not solely rely on factual truths, but also explore common understandings or values (meta normative truths) as a way to break down barriers to reconciliation.

Conclusions: operational legacy

1. It is essential to make information and evidence collected for international war crimes proceedings available in corresponding national proceedings.

2. The work of a commission of inquiry preceding the establishment of an international court or tribunal can provide an important starting point for shaping an investigation and prosecution strategy.

3. War crimes prosecution offices will invariably have to prioritise which crimes to prosecute, taking into account factors such as the gravity of the crimes, the main features of criminality during conflict, crimes committed against males and females, and which perpetrators bear the greatest responsibility.

4. War crimes prosecution offices will need to think creatively about strategies to overcome operational difficulties and be prepared to propose novel procedures to facilitate their work.

5. A prosecution office will need to understand the political environment in which it works, while ensuring that its work is not affected by political considerations.

6. Peer-to-peer models for national capacity building are preferable to traditional training methods. In particular, models that allow for sustained and practical follow-up and problem solving on specific issues are the most effective.

7. Having technology in place to ensure a well-structured and easily searchable database for a war crimes evidence collection is essential from the moment of the establishment of prosecution offices.

Recommendations: operational legacy

1. Significant attention should be paid to ensuring accurate and comprehensive metadata for evidentiary items to facilitate the searching and tracking process.

2. Prosecution offices should establish a special team to facilitate the work of fugitive tracking, including through the development of sources, collation of intelligence information, and by creating task-forces of relevant agencies.

3. The prosecution should continuously re-analyse its evidence, particularly as new material is collected that may shed new light on crime base, linkage and objectives in leadership cases.

4. The international community should consider strategies for facilitating the collection and preservation of DNA evidence from conflict crime scenes, even when no jurisdiction is yet available to prosecute the commission of these crimes.

5. Capacity-building initiatives should be preceded by a comprehensive needs assessment.

6. National, regional, and international courts and tribunals should consider developing strategies to facilitate capacity building for war crimes accountability from the moment of their establishment.

7. Strategies should be put in place to ensure access by other relevant criminal justice actors, to information or evidence through electronic databases, while protecting the confidentiality and security of such data. Training for those criminal justice actors to effectively search databases should also be available.

Conclusions: defence and fair trials legacy

1. Access to defence is a key indicator of fair trial rights as basic human rights.

2. The convergence of common law and civil law systems has posed challenges for disclosure practices.

3. Each accused person should be entitled to qualified defence counsel with expertise in international humanitarian law and international criminal law.

4. Training initiatives for defence counsel are fundamental to achieving fair trial standards

5. The ICTY's jurisprudence is a valuable tool for the development of national legislation in the area of international criminal law.

6. The ICTY's experience has assisted national jurisdictions in enhancing the ability of States to exercise universal jurisdiction.

Recommendations: defence and fair trials legacy

1. All international courts and tribunals should consider establishing associations of defence counsel to represent the interests of defence counsel and the rights of the accused and to ensure that professional standards are harmonised.

2. Consideration should be given to how the ICTY's disclosure systems could best serve other international courts and tribunals, as well as national jurisdictions.

3. Regular training on the jurisprudence and practice of international courts and tribunals should be available to lawyers working on war crimes cases in national jurisdictions.

4. The ICTY's developed practices could assist national jurisdictions where war crimes cases are conducted on the basis of universal jurisdiction, including through cooperation.

5. Information regarding the ICTY's jurisprudence and practices should be disseminated to national defence associations and offices where war crimes cases are conducted, to ensure equal access to such information. The ICTY should also provide national defence associations and offices with access to its databases.

Conclusions: the participatory legacy

1. Witness support is an important and integral part of court structures.

2. Witness needs are diverse and complex, and can last long after testimony has been given.

3. Seeking input from witnesses on their needs is critical to providing appropriate support.

4. Other actors, whether formal or informal, such as community support groups and NGOs, can form effective witness support networks.

Recommendations: the participatory legacy

1. Present and future international courts and tribunals should consider following the ICTY's witness-centred approach.

2. State authorities need to take responsibility for witness support, including by providing resources.

3. Prosecution offices should take proactive steps to locate and encourage female witnesses to testify in war crimes proceedings.

4. National, regional, and international courts and tribunals should consider a proactive approach towards witnesses, informing them of the types of support available.

5. National, regional, and international courts and tribunals should ensure continuing support to witnesses beyond their testimony.

Conclusions: historical legacy

1. Preservation of documents is a key foundation of international criminal courts. A living archive is critical for the success of legacy strategies.

2. Leaving an historical record is not necessarily a primary purpose of international criminal courts and tribunals, although a record may be established as a result of court proceedings.

3. The historical value of court records extends beyond judgements. These records must be read in context and a fuller picture may emerge through complementarity of courts and other justice mechanisms.

4. The value of evidence for purposes of historical clarification differs among types of evidence. In order to obtain a comprehensive account, it is necessary to compare findings and testimony across cases.

Recommendations: historical legacy

1. The ICTY should ensure that a permanent record of the crimes committed during the Yugoslav wars is available to the public in the region, in all local languages.

2. The ICTY's record of crimes should include, *inter alia*, judgements, decisions, transcripts of witness testimony, video recordings of court hearings, and exhibits.

3. The ICTY should have in place a long-term strategy to grant public access to archive material.

Conclusions: outreach legacy

1. The ICTY Outreach Programme has played a key role in building the capacity of national institutions dealing with war crimes in the former Yugoslavia.

2. The ICTY Outreach Programme has ensured access to information about the work of the Tribunal through its wide range of activities and its website.

3. The ICTY Outreach Programme's repository of legacy material about the work of the Tribunal will continue to be used in future public discourse on legacy.

4. Outreach programmes are a vital part of any judicial institution dealing with war crimes regardless of challenges in implementing their mandate.

5. The work of civil society, such as non-governmental organisations, victims' groups, and academia is fundamental to ensure that the legacy of the ICTY continues beyond the Tribunal's closure and has an impact on transitional justice processes.

6. Exchange and communication with key target groups, such as victims, politicians, journalists, civil society organisations, and academia is essential for outreach programmes to have an impact.

Recommendations: outreach legacy

1. Strong field presence of outreach programmes in the affected regions is crucial to enable them to communicate the work of judicial institutions to key audiences.

2. Outreach programmes should be built as two-way communication tools which listen and react to the needs of the affected communities.

3. Outreach programmes should be at the outset a core and appropriately funded function of national, regional, and international courts and tribunals dealing with war crimes.

4. Information about the work and legacy of the ICTY should continue to be accessible in the official and all local languages of the former Yugoslavia through the establishment of the information centres.

5. One of the key target groups of the ICTY's legacy should be youth.